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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

9 JUAN J. YEPEZ

10 Plaintiff

11 v.

12 WARREN HENRY KNOX dba KNOX  
13 ROOFING and FOREVER FIREWOOD,  
INC.

14 Defendants

Case No.: 11-cv-01534 PSG

**STIPULATION AND [XXXXXXXXXXXXXXXXXXXX]  
ORDER RE: 90 DAY CONTINUANCE  
OF CASE MANAGEMENT  
CONFERENCE AND  
ENLARGEMENT OF TIME FOR  
DEFENDANTS TO RESPOND TO  
COMPLAINT**

**Action Filed:** March 30, 2011  
**Trial Date:** Not Set

16 Pursuant to Local Rule 6-1, Plaintiff JUAN J. YEPEZ and Defendants WARREN  
17 HENRY KNOX dba KNOX ROOFING and FOREVER FIREWOOD, INC., by and through  
18 their respective attorneys of record, Tomas Margain of DAL BON & MARGAIN, APC and  
19 Phillip A. Passafuime of DAWSON ROSE PASSAFUIME LLP, stipulate as follows:

21 1. This initial Case Management Conference is set for June 28, 2011 with a  
22 Joint CMC statement and Rule 26(f) disclosures and report due on June 21, 2011.

23 2. The Parties wish to continue the above deadlines so they can focus on  
24 trying to resolve the matter.

25 3. All parties have Consented to Magistrate jurisdiction before this Court.

1           4. Parties are also filing concurrently with this stipulation, a Stipulation to go  
2 to mediation through this Court's ADR program.

3           5. The Parties request a 90-day continuance of the initial case management  
4 conference so that they can finish Court sponsored mediation within the presumptive 90-day  
5 deadline.

6           6. Counsel for the parties have spoken about Plaintiff's theory of liability in  
7 the case stemming from his allegation that he was paid both an hourly rate of pay and piece work  
8 rate of pay. There is a dispute as to the number of hours actually worked by Plaintiff, including  
9 the extent and scope of overtime hours for which he is seeking payment. However, counsel have  
10 been able to identify what documents Plaintiff's counsel would need to perform an audit to go to  
11 mediation. The documents appear voluminous, about a box of them, but manageable. These are  
12 primarily job sheets where Plaintiff would write down his work day and the tasks performed and  
13 their locations.

14           7. The Parties would like to focus their efforts on mediation. Plaintiff's  
15 counsel has hired an auditor who will be able to work full time in June and early July to perform  
16 the data entry for Plaintiff's audit.


17 **IT IS SO STIPULATED THROUGH COUNSEL OF RECORD.**

18 DATED: June 3, 2011

DAL BON & MARGAIN, APC

20 /s/ Tomas E. Margain  
21 TOMAS E. MARGAIN  
22 Attorneys for Plaintiff

23 DATED: June 3, 2011

24   
25 PHILLIP A. PASSAFUIME  
Attorney for Defendants

**PURSUANT TO STIPULATION, AND FOR GOOD CAUSE SHOWN THE COURT  
ORDERS AS FOLLOWS.**

The initial case management Conference is Continued to September 27, 2011 at 2:00 p.m.

If the matter has not settled, the parties shall have completed Initial Disclosures, all  
Defendants must have responded to the Complaint and parties shall file a Joint Case  
Management Statement by September 17, 2011.

DATED: June 8, 2011

By:   
PAUL S. GREWAL  
United States Magistrate Judge

PHILLIP A. PASSAFUIME, ESQ. - Bar No. 67077  
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Attorneys for Defendants

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

JUAN J. YEPEZ

Plaintiff

v.

WARREN HENRY KNOX dba KNOX  
ROOFING and FOREVER FIREWOOD,  
INC.

Defendants

Case No.: 11-cv-01534 PSG

DEFENDANTS' CONSENT TO  
PROCEED BEFORE A  
U.S. MAGISTRATE JUDGE


CONSENT TO PROCEED BEFORE A UNITED STATE MAGISTRATE JUDGE

In accordance with the provisions of Title 28, U.S.C. Section 636(c), the Defendants hereby voluntarily consent to have a United States Magistrate Judge conduct any and all further proceedings in the case, including trial, and order the entry of a final judgment. Appeal from judgment shall be taken directly to the United State Court of Appeals for the Ninth Circuit.

Dated: 6-3-11

DAWSON, PASSAFUIME, BOWDEN & MARTINEZ

By

  
PHILLIP A. PASSAFUIME  
Attorney for Defendants

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JUAN J. YEPEZ

Plaintiff(s),

v.

WARREN HENRY KNOX, ET AL

Defendant(s).

CASE NO. CH-01534 PSG

STIPULATION AND [PROPOSED]  
ORDER SELECTING ADR PROCESS

Counsel report that they have met and conferred regarding ADR and have reached the following stipulation pursuant to Civil L.R. 16-8 and ADR L.R. 3-5:

The parties agree to participate in the following ADR process:

**Court Processes:**

- ☐ Non-binding Arbitration (ADR L.R. 4)
- ☐ Early Neutral Evaluation (ENE) (ADR L.R. 5)
- ☒ Mediation (ADR L.R. 6)

*(Note: Parties who believe that an early settlement conference with a Magistrate Judge is appreciably more likely to meet their needs than any other form of ADR, must participate in an ADR phone conference and may not file this form. They must instead file a Notice of Need for ADR Phone Conference. See Civil Local Rule 16-8 and ADR L.R. 3-5)*

**Private Process:**

☐ Private ADR (please identify process and provider)

The parties agree to hold the ADR session by:

- ☒ the presumptive deadline *(The deadline is 90 days from the date of the order referring the case to an ADR process unless otherwise ordered. )*

☐ other requested deadline

Dated: 6/3/2011

/s/ Tomas Margain

Attorney for Plaintiff

Dated: 6/3/2011

/s/ Phillip A. Passafiume

Attorney for Defendant

When filing this document in ECF, please be sure to use the appropriate ADR Docket Event, e.g., "Stipulation and Proposed Order Selecting Early Neutral Evaluation."

**[PROPOSED] ORDER**

Pursuant to the Stipulation above, the captioned matter is hereby referred to:

- ☐ Non-binding Arbitration
- ☐ Early Neutral Evaluation (ENE)
- ☐ Mediation
- ☐ Private ADR

Deadline for ADR session

- ☐ 90 days from the date of this order.
- ☐ other

IT IS SO ORDERED.

Dated:

UNITED STATES MAGISTRATE JUDGE